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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 09-01265 (SMB)

MARY ALBANESE, BROW FAMILY
PARTNERSHIP, ALLAN GOLDSTEIN,
LAURENCE KAYE, SUZANNE KAYE, ROSE
LESS, GORDON BENNETT, on behalf of
themselves and all Others Similarly Situated,

Plaintiffs,

v.

IRVING H. PICARD, Trustee for the Substantively
Consolidated SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and Bernard L. Madoff,

Defendant.

**STIPULATION AND ORDER FOR VOLUNTARY
DISMISSAL WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and plaintiffs in an action against the Trustee commenced by Mary Albanese, Brow Family Partnership, Allan Goldstein, Laurence Kaye, Suzanne Kaye, Rose Less, Gordon Bennett, on behalf of themselves and all others similarly situated (the “Plaintiffs”, and together with the Trustee, the “Parties”), hereby stipulate and agree to the following:

1. On June 5, 2009, the Plaintiffs filed and served the Complaint against the Trustee.
2. On June 23, 2009, the Plaintiffs filed and served the Amended Complaint against the Trustee.
3. On July 17, 2009, Trustee answered the Complaint and asserted counterclaims (the “Adversary Proceeding”) against Mary Albanese, Brow Family Partnership, Laurence Kaye, Suzanne Kaye, Rose Less, Gordon Bennett (collectively, the “Counterclaims Defendants”).
4. The Counterclaims Defendants each submitted to the Trustee a hardship application requesting that the Trustee agree to dismiss the counterclaims as asserted against each of them. In reliance on the representations made by the Counterclaims Defendants in their hardship applications and other representations and/or materials submitted by the Counterclaims Defendants in support of their hardship applications, all under penalty of perjury, the Trustee in the exercise of his due and deliberate discretion has determined to dismiss his counterclaims against the Counterclaims Defendants.
5. The Counterclaims Defendants hereby affirm (i) that all representations made each of them, and all materials provided by each of them have been submitted as true and correct under penalty of perjury and (ii) that the Trustee has relied upon these materials in exercising his

discretion to dismiss the counterclaims asserted against the Counterclaims Defendants.

6. The Counterclaims Defendants hereby agree that to the extent they are subsequently determined that they deliberately or intentionally submitted materially false and/or misleading representations, statements and/or materials in connection with their hardship applications, (i) the Trustee shall have the right to reinstitute the claims asserted against the Counterclaims Defendants and/or pursue other remedies available to him and (ii) this Stipulation and Order shall act to toll any applicable statutes of limitation with respect to the Trustee's commencement of any such claims. Notwithstanding section 546(a) of the Bankruptcy Code, the Counterclaims Defendants hereby agree to waive any statute of limitations defense in any such actions or claims commenced by Trustee.

7. In consideration for the dismissal of the counterclaims, the Plaintiffs hereby agree to dismissal of the Amended Complaint.

8. Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Bankr. P. 7041, the Trustee and the Counterclaims Defendants hereby agree that upon approval of this Stipulation and Order by the Bankruptcy Court, (i) the Trustee's claims against the Counterclaims Defendants are dismissed without prejudice, (ii) the Adversary Proceeding is dismissed without prejudice; (iii) and the Amended Complaint is dismissed with prejudice.

9. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

10. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

11. This Stipulation and Order is subject to the approval of the Bankruptcy Court,
failing which the provisions of the Stipulation and Order shall be void and of no effect.

Dated: May 2, 2018
New York, New York

By: /s/ Nicholas J. Cremona

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of Bernard L. Madoff Investment Securities
LLC and the Estate of Bernard L. Madoff*

SO ORDERED

S/ STUART M. BERNSTEIN

HON. STUART M. BERNSTEIN

UNITED STATES BANKRUPTCY JUDGE

Dated: May 2, 2018
New York, New York